

CALIFORNIA HORSE RACING BOARD

Submitted by Blank Rome LLP on behalf of

ODS Technologies LP (TVG) and Betfair US LLC

California Horse Racing Board				
From	Current Rule Number and Text	Proposed Modifications Received	Comments received	Staff Recommendation
ODS Technologies LP (“TVG”) and Betfair US LLC (“Betfair”)	<p>Rule 2086.6(b)(2) (draft for Ad Hoc Committee August 22, 2012 – edits proposed by Staff in single underline)</p> <p>2086.6. Operating Plan Required.</p> <p>As part of the exchange wagering license application, and any renewal application, the applicant shall submit a detailed operating plan in a format and containing such information as required by the Board. At a minimum, the operating plan shall address the following:</p> <p style="text-align: center;">* * * *</p> <p>(b) Management of customer accounts including deposits, withdrawals, debits and credits. This shall include:</p> <p style="text-align: center;">* * * *</p> <p>(2) Evidence of an established account with an Federal Deposit Insurance Corporation (FDIC) insured bank in which all funds of the account holders will be deposited. This shall include evidence that account holder’s funds are segregated and held in a separate FDIC insured bank account of the exchange provider, and that the funds shall <u>not be used for any purpose other than those required by the account holder’s exchange wagering transactions.</u></p>	<p>(Edits proposed by TVG and Betfair in strike-through and double underline)</p> <p>2086.6. Operating Plan Required.</p> <p>As part of the exchange wagering license application, and any renewal application, the applicant shall submit a detailed operating plan in a format and containing such information as required by the Board. At a minimum, the operating plan shall address the following:</p> <p style="text-align: center;">* * * *</p> <p>(b) Management of customer accounts including deposits, withdrawals, debits and credits. This shall include:</p> <p style="text-align: center;">* * * *</p> <p>(2) Evidence of an established account with an Federal Deposit Insurance Corporation (FDIC) insured bank in which all funds of the account holders will be deposited. This shall include evidence that account holder’s funds are segregated and held in a separate FDIC insured bank account of the exchange provider, and that the funds shall not be used for any purpose other than those required by the account holder’s</p>	<p>The Rules otherwise contemplate that a licensee may also be licensed to offer advance deposit wagering under <u>Business & Professions Code § 19604</u> and Article 26 of the Rules. <i>See e.g.</i> Rule 2089.5(e). Should an advance deposit wagering account holder desire to open an exchange wagering account, it would be counterproductive and unduly cumbersome to prohibit such account holders from using funds in either account to place advance deposit wagers or exchange wagers. Moreover, it is reasonably likely that holders of exchange wagering accounts may desire to purchase other client services, such as racing forms, video, etc., and should be able to do so with the funds deposited in the exchange wagering account.</p>	

California Horse Racing Board				
From	Current Rule Number and Text	Proposed Modifications Received	Comments Received	Staff Recommendation
		exchange wagering transactions, <u>advance deposit wagering transactions,</u> <u>or related client services.</u>		
ODS Technologies LP (“TVG”) and Betfair US LLC (“Betfair”)	<p>Rule 2086.6(h) (draft for Ad Hoc Committee August 22, 2012 – edits proposed by Staff in single underline)</p> <p>2086.6. Operating Plan Required.</p> <p>As part of the exchange wagering license application, and any renewal application, the applicant shall submit a detailed operating plan in a format and containing such information as required by the Board. At a minimum, the operating plan shall address the following: * * * *</p> <p>(h) The requirements for exchange wagering accounts established and operated for persons whose principal residence is outside of the state, <u>which accounts may be utilized for wagers on California races only, and cannot be utilized to wager on non-California races.</u></p>	<p>(Edits proposed by TVG and Betfair in strike-through and double underline)</p> <p>2086.6. Operating Plan Required.</p> <p>As part of the exchange wagering license application, and any renewal application, the applicant shall submit a detailed operating plan in a format and containing such information as required by the Board. At a minimum, the operating plan shall address the following: * * * *</p> <p>(h) The requirements for exchange wagering accounts established and operated for persons whose principal residence is outside of the state, <u>which accounts may be utilized for wagers on California races only, and cannot be utilized to wager on non-California races, for purposes of these rules, shall apply only to wagering on California races.</u></p>	<p>The Los Angeles Turf Club and the Pacific Racing Association (collectively the “Stronach Group”) proposed a change to Rule 2086.6(h) to mandate that funds in an exchange wagering account opened by an out-of-state resident could only be used to wager on California races, while an exchange wagering account opened by California residents could be used to wager on any race wherever the race was run. The Stronach Group argued for this change on the basis that <u>Business & Professions Code</u> § 19604.5(b) only permits exchange wagering between residents of California and residents of another jurisdiction on races conducted in California. The Stronach Group misinterpreted the meaning of § 19604.5(b).</p> <p>In enacting <u>Business & Professions Code</u> § 19604.5(b), the California Legislature sought to make expressly legal exchange wagering where the wager had anything to do with California (i.e. where (i) the bettor was a resident of California, or (ii) the race is run in California, and declare the conditions under which such exchange wagering may take place). However, the California Legislature made <u>no</u> effort to declare, and would have had no jurisdiction to attempt to declare, what races <i>outside</i> California a bettor living</p>	

California Horse Racing Board				
From	Current Rule Number and Text	Proposed Modifications Received	Comments Received	Staff Recommendation
			<p><i>outside</i> California could bet on or the conditions for such a bet – any more so than the California Legislature could attempt to declare the conditions under which a resident of New Jersey could place a bet at a New Jersey satellite wagering facility on a race run in New York. The conditions under which a bettor located in New Jersey is legally able to place a bet on a race run in New York is a question of the application of New Jersey law (and New York law) and something which California law cannot attempt to regulate.</p> <p>Moreover, attempting to restrict the wagers which a California licensee could take from non-California residents on non-California races would put California licensees at a distinct competitive disadvantage to exchange wagering operators who are licensed in another jurisdiction (e.g. New Jersey) and are able to accept exchange wagers from residents of every other state which may choose to legalize exchange wagering.</p> <p>It is appropriate for the Rules, therefore, to provide conditions applicable to exchange wagers placed by persons resident in jurisdictions outside California <i>solely</i> to the extent that such persons seek to place exchange wagers on races run in California.</p>	
ODS Technologies LP (“TVG”) and Betfair US LLC	Rule 2087.5(a) (draft for Ad Hoc Committee August 22, 2012 – edits proposed by Staff in single underline)	(Edits proposed by TVG and Betfair in strike-through and double underline)	During the Ad Hoc Committee meeting on August 22, 2012, the attendees discussed with Vice-Chairman Israel	

California Horse Racing Board				
From	Current Rule Number and Text	Proposed Modifications Received	Comments Received	Staff Recommendation
("Betfair")	<p>2087.5. Antepost Market.</p> <p>(a) Antepost market wagers are wagers placed <u>in advance of the closing of entries</u> where one single wager is made on an outcome that includes both:</p> <p>(1) that the selected horse will run the race; and</p> <p>(2) that the selected horse will finish the race in the selected position of win, place, or show.</p>	<p>2087.5. Antepost Market.</p> <p>(a) Antepost market wagers <u>are authorized on Grade 1/Group 1 or Grade 2/Group 2 stakes races and</u> are wagers placed in advance of the closing of entries where one single wager is made on an outcome that includes both:</p> <p>(1) that the selected horse will run the race; and</p> <p>(2) that the selected horse will finish the race in the selected position of win, place, or show.</p>	<p>and Commissioner Rosenberg that it may be appropriate to limit the availability of antepost market wagers to significant races where there is more likely to be wide interest in which horses are entered in the field for such races. There appeared to be general acceptance of this concept among the participants at that meeting. The proposed edits would limit antepost markets to being offered only on more significant races (i.e Grade 1/Group 1 or Grade 2/Group 2 stakes races).</p>	
<p>ODS Technologies LP ("TVG") and Betfair US LLC ("Betfair")</p>	<p>Rule 2089.5(a) (draft for Ad Hoc Committee August 22, 2012 – edits proposed by Staff in single underline)</p> <p>2089.5. Requirements to Establish an Exchange Wagering Account.</p> <p>(a) An exchange wagering account is necessary to place exchange wagers. Exchange wagering accounts may be established by residents of California. Residents of another jurisdiction may establish exchange wagering accounts provided it is not unlawful under United States federal law or the law of that jurisdiction to place an exchange wager <u>and such accounts are used for wagering on California races only</u>. An account may be established in person, by mail, telephone, or other electronic media including but not limited to the Internet. <u>Only natural persons may open an account</u>. An account shall not be assignable or otherwise transferable.</p>	<p>(Edits proposed by TVG and Betfair in strike-through and double underline)</p> <p>2089.5. Requirements to Establish an Exchange Wagering Account.</p> <p>(a) An exchange wagering account is necessary to place exchange wagers. Exchange wagering accounts may be established by residents of California. Residents of another jurisdiction may establish exchange wagering accounts provided it is not unlawful under United States federal law or the law of that jurisdiction to place an exchange wager and such accounts are used for wagering on California races only provided, however, that these rules shall apply only to wagering on California races. An account may be established in person, by mail, telephone, or other electronic media including but not limited to the Internet. Only natural persons may open an account. An account shall not be assignable or</p>	<p>The Los Angeles Turf Club and the Pacific Racing Association (collectively the "Stronach Group") proposed a change to Rule 2089.5(a) to mandate that funds in an exchange wagering account opened by an out-of-state resident could only be used to wager on California races, while an exchange wagering account opened by California residents could be used to wager on any race wherever the race was run. The Stronach Group argued for this change on the basis that <u>Business & Professions Code</u> § 19604.5(b) only permits exchange wagering between residents of California and residents of another jurisdiction on races conducted in California. The Stronach Group misinterpreted the meaning of § 19604.5(b).</p> <p>In enacting <u>Business & Professions Code</u> § 19604.5(b), the California Legislature sought to make expressly legal exchange wagering where the</p>	

California Horse Racing Board				
From	Current Rule Number and Text	Proposed Modifications Received	Comments Received	Staff Recommendation
		otherwise transferable.	<p>wager had anything to do with California (i.e. where (i) the bettor was a resident of California, or (ii) the race is run in California, and declare the conditions under which such exchange wagering may take place). However, the California Legislature made <u>no</u> effort to declare, and would have had no jurisdiction to attempt to declare, what races <i>outside</i> California a bettor living <i>outside</i> California could bet on or the conditions for such a bet – any more so than the California Legislature could attempt to declare the conditions under which a resident of New Jersey could place a bet at a New Jersey satellite wagering facility on a race run in New York. The conditions under which a bettor located in New Jersey is legally able to place a bet on a race run in New York is a question of the application of New Jersey law (and New York law) and something which California law cannot attempt to regulate.</p> <p>Moreover, attempting to restrict the wagers which a California licensee could take from non-California residents on non-California races would put California licensees at a distinct competitive disadvantage to exchange wagering operators who are licensed in another jurisdiction (e.g. New Jersey) and are able to accept exchange wagers from residents of every other state which may choose to legalize exchange wagering.</p> <p>It is appropriate for the Rules, therefore,</p>	

California Horse Racing Board				
From	Current Rule Number and Text	Proposed Modifications Received	Comments Received	Staff Recommendation
			to provide conditions applicable to exchange wagers placed by persons resident in jurisdictions outside California <i>solely</i> to the extent that such persons seek to place exchange wagers on races run in California.	